

REMARKS/ARGUMENTS

This Amendment is submitted in response to the Office Action mailed July 7, 2003. At that time claims 1-8 were pending in the application. In the Office Action, the Examiner objected to informalities in the specification regarding reference numerals. The Examiner rejected claims 1 and 4-6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,043,581 to St. Germain (hereinafter "St. Germain"). Claims 1-3 were rejected under §102(b) as being anticipated by U.S. Patent No. 4,239,271 to Beasley et al. (hereinafter "Beasley"). Claims 1-3 were also rejected under §102(b) as being anticipated by U.S. Patent No. 5,848,667 to Davidson (hereinafter "Davidson"). Claims 5, 7 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Beasley in view of St. Germain.

By this amendment claims 1 and 5 have been amended. New claims 19 and 20 have been added. Support for claims 19 and 20 can be found on page 8, lines 8-15, and page 11, lines 1-8 of the specification. Accordingly, claims 1-8 and 19-20 are presented for reconsideration by the Examiner.

AMENDMENT TO THE SPECIFICATION

The paragraph beginning at page 9, line 5 of the specification has been amended to comply with the Examiner's objections by changing reference numeral 28 to reference numeral 30 when referring to twists in the connecting member.

REJECTION OF CLAIMS 1 AND 4-6 UNDER 35 U.S.C. §102(b)

The Examiner rejected claims 1 and 4-6 under 35 U.S.C. §102(b) as being anticipated by St. Germain. *See* Office Action page 3. The Applicants respectfully traverse this rejection.

It is well settled that a claim is anticipated under 35 U.S.C. § 102(b) only if “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” MPEP §2131, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

1. Claims 1 and 4

As a result of this paper, claims 1 and 4 include the limitation that the flexible connector member is attachable to a vehicle safety device and to an anchor bolt. The basis for this limitation is found in the preamble of claim 1 and page 11, lines 1-2 of the specification. Such a limitation is not taught or disclosed by St. Germain. Rather, St. Germain discloses a cable hoisting sling (*see* column 1, lines 6-8). The Examiner suggested that the loop in St. Germain is capable of being configured to receive and retain an anchor bolt. *See* Office Action page 3. However, there is no teaching in St. Germain to attach the hoisting sling to an anchor bolt. Rather, the eye (10) of the sling is shown suspending from a rod (6). *See* Figure 1; column 2, lines 48-50.

In order for St. Germain to anticipate, it must provide an enabling disclosure of the claim limitations. *See Bristol-Myers Squibb Co. v. Ben Venue Labs., Inc.*, 246 F.3d 1368, 1374 (Fed. Cir. 2001) (“To anticipate, the reference must...enable one of skill in the art to make and use the claimed invention.”) (citations omitted); *Paperless Accounting Inc. v. Bay Area Rapid Transit Sys.*, 804 F.2d 659, 665 (Fed. Cir. 1986) (“[A] reference ‘must sufficiently describe the claimed invention to have placed the public in possession of it...[E]ven if the claimed invention is disclosed in a printed publication, that disclosure will not suffice as prior art if it was not enabling.’”). As discussed above, St. Germain does not teach or disclose attachment to an anchor bolt, therefore, it is not enabling of the claimed invention and cannot anticipate.

Furthermore, the opposing end of the sling of St. Germain (near 18 on Figure 2), or any other portion of the sling is not attachable to a vehicle safety device as is recited in the claims. As shown in Figure 2, there is merely another loop of cable, not a portion attachable to a vehicle safety device. Consequently, St. Germain does not anticipate claims 1 and 4 under §102(b) because it does not recite each and every claim limitation.

St. Germain also does not disclose the claim limitation that a flexible connector member has a loop with a twist. St. Germain discloses a cable hoisting sling. The cable of St. Germain is not itself twisted, but it is weaved with itself or with another cable. *See* column 1, lines 48-50; Figures 3 and 4. Since there are no twists in the cable where the loop exists, St. Germain does not disclose each and every claim limitation. Therefore it does not anticipate under §102(b).

2. Claims 5-6

As mentioned above, anticipation under §102(b) requires that each and every claim limitation be disclosed by the prior art reference. *See* MPEP §2131. As a result of this paper, claims 5-6 include the limitation that the method for making and attaching the anchoring apparatus includes the steps of engaging the aperture with an anchor bolt and attaching the connecting member to a vehicle safety device. The basis for these limitations are found on page 9, lines 9-12, page 10, lines 10-20, and page 11, lines 1-2 of the specification. Such a limitation is not taught or disclosed by St. Germain.

The Examiner referred to Figures 1-4 in rejecting claims 5 and 6. *See* Office Action page 3. However, Figures 1-4 of St. Germain do not disclose or teach a method for engaging the aperture with an anchor bolt or attaching the connecting member to a vehicle safety device. Rather, Figures 1-4 illustrate how the eye (10) is woven from a cable or cables and suspended from a rod (6). There is no anchor bolt or vehicle safety device disclosed. Therefore, St. Germain cannot teach the method for attaching the apparatus to an anchor bolt and a vehicle safety device because neither element is disclosed. As such, St. Germain does not anticipate these claims under §102(b). Withdrawal of this rejection is respectfully requested.

REJECTION OF CLAIMS 1-3 UNDER 35 U.S.C. §102(b)

The Examiner rejected claims 1-3 under 35 U.S.C. §102(b) as being anticipated by Beasley. *See* Office Action page 3. The Applicants respectfully traverse this rejection.

As noted above, anticipation under §102(b) requires that each and every claim limitation be disclosed by the prior art reference. *See* MPEP §2131. As a result of this paper, claims 1-3 include the limitation that the loop is configured with a twist throughout the body of the loop. The basis for this limitation is found in Figure 2, reference numeral 30. Such a limitation is not taught or disclosed by Beasley. Rather, Beasley discloses a sling for hoisting and towing tasks. *See* column 1, lines 8-12. The sling of Beasley has a protective cover that encompasses a folded region of the flexible strap in the body of the loop. *See* column 2, lines 8-14; Figure 1 (52). Beasley teaches that the “twist is disposed adjacent the folded region encompassed by the protective cover. Accordingly, the twist occurs within a region where the flexible strap is only partially folded relative to the folded region.” *See* column 2, lines 38-43. Since the twist is limited to the region outside the folded region, and the folded region is located in the body of the loop (*see* Figure 1 (52)), Beasley does not anticipate claims 1-3 because Beasley does not have a loop that is configured with a twist throughout the body of the loop.

Furthermore, as noted above, in order for Beasley to anticipate, it must provide an enabling disclosure of the claim limitations. *See Bristol-Myers*, 246 F.3d at 1374; *Paperless*, 804 F.2d at 665. There is no teaching in Beasley to attach the sling to an anchor bolt. Rather, the loop (10) is taught to have a folded region (24) for use with vehicle towing tasks incorporating a trailer hitch. *See* column 4, lines 9-12. Since Beasley does not teach or disclose attachment to an anchor bolt, it is not enabling of the claimed invention and cannot anticipate. Accordingly, the Applicants respectfully request that this rejection be withdrawn.

REJECTION OF CLAIMS 1-3 UNDER 35 U.S.C. §102(b)

The Examiner rejected claims 1-3 under 35 U.S.C. §102(b) as being anticipated by Davidson. *See* Office Action page 4. The Applicants respectfully traverse this rejection.

Anticipation under §102(b) requires that each and every claim limitation be disclosed by the prior art reference. *See* MPEP §2131. As a result of this paper, claims 1-3 include the limitation that the flexible connector member is attachable to a vehicle safety device and to an anchor bolt. Such a limitation is not taught or disclosed by Davidson. Davidson discloses a flexible boat ladder that “provides a convenient way of climbing out of the water onto any kind of watercraft” (*see* column 1, lines 6-8, column 3, lines 55-57). Despite its use as a ladder, the Examiner suggested that the bottom loop (24) in Davidson is capable of being configured to receive and retain an anchor bolt. *See* Office Action page 4. However, there is no teaching or suggestion in Davidson to attach the boat ladder loop to an anchor bolt.

As noted above, in order for Davidson to anticipate the claimed invention, Davidson must provide an enabling disclosure of the claim limitations. *See Bristol-Myers*, 246 F.3d at 1374; *Paperless*, 804 F.2d at 665. The loop (24) disclosed in Davidson is configured to “stand open and to be oriented properly so as to facilitate entry of the hand or foot.” Column 3, lines 19-21; *see also* column 3, lines 55-59. However, the twist or twists in the loop of the present invention are configured to receive and retain the anchor bolt by “consolidating the connecting member 12 around the aperture 28...and better allow the anchor aperture 28 to engage an anchor bolt.” Page 9, lines 9-11. The boat ladder loop of Davidson is therefore not “configured to receive and retain” an anchor bolt because it is designed to stand open and receive a foot, rather than be “consolidated” to receive and retain an anchor bolt. Since Davidson does not teach or disclose a flexible connector member attachable to an anchor bolt, it is not enabling of the claimed invention and cannot anticipate.

Moreover, the other end 16a of the boat ladder is not attachable to a vehicle safety device as is set forth in claims 1-3. Instead, that end is configured to receive a rope and has a hand grip comprising a second loop. *See* column 2, lines 45-54. The Davidson boat ladder, therefore, has structure not compatible with being attachable to a vehicle safety device. Since the boat ladder is not attachable to a vehicle safety device, the reference does not anticipate under §102(b) because Davidson does not disclose each and every claim limitation. Withdrawal of this rejection is respectfully requested.

REJECTION OF CLAIMS 5, 7 AND 8 UNDER 35 U.S.C. §103(a)

The Examiner rejected claims 5, 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Beasley in view of St. Germain. *See* Office Action page 4. The Applicants respectfully traverse this rejection.

According to MPEP §2143.03, to establish a *prima facie* case of obviousness, “all of the claim limitations must be taught or suggested by the prior art.” (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (C.C.P.A. 1974)). “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” MPEP §2143.03 citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). As a result of this paper, claims 5, 7 and 8 include the limitations that the method for making and attaching the anchoring apparatus includes the steps of engaging the aperture with an anchor bolt and attaching the connecting member to a vehicle safety device. As discussed at length above, this limitation is not taught or disclosed by either Beasley or St. Germain. The above arguments are hereby incorporated into the present section.

Neither Beasley nor St. Germain makes mention of an anchor bolt or a vehicle safety device, since both inventions are directed to hoisting slings. *See* Beasley, column 1, lines 6-8; St. Germain, column 1, lines 6-8. Therefore, the combination of Beasley and St. Germain does not render these claims *prima facie* obvious under §103(a). Withdrawal of this rejection is respectfully requested.

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CONCLUSION

In view of the foregoing, Applicants respectfully assert that claims 1-8 and 19-20 are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,



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